

HUGH BURNETT

IBLA 76-531

Decided January 10, 1977

Appeal from decision of New Mexico State Office, Bureau of Land Management, rejecting simultaneous oil and gas lease offer NM-27171.

Reversed.

1. Accounts: Payments—Oil and Gas Leases: Applications: Filing

Appellant's submission with simultaneous oil and gas lease offer of a personal check to cover filing fees satisfied 43 CFR 3112.2-1(a)(1) despite drawee bank's subsequent refusal to honor that check, since the refusal is shown by evidence to be error on part of bank alone.

APPEARANCES: Hugh Burnett, Salt Lake City, Utah, pro se.

OPINION BY ADMINISTRATIVE JUDGE GOSS

Hugh Burnett appeals from a January 20, 1976, decision of the New Mexico State Office, Bureau of Land Management (BLM), rejecting his simultaneous oil and gas lease offer NM-27171, which had been chosen first at a December 10, 1975, drawing.

The State Office ruled that because appellant's personal check for filing fees was returned to BLM by drawee bank marked "Refer to Maker," appellant had failed to conform to 43 CFR 3112.2-1(a)(1). The regulation provides:

The entry card must be accompanied by a remittance covering the filing fee of \$10. The filing fee may be paid in cash or by money order, bank draft, bank cashier's check or check.

The State Office had received on December 15, 1975, a letter from the Assistant Vice President-Manager of the bank stating that the refusal to honor the check was an error on the bank's part. The State Office viewed this as "a private matter between the bank and their client, whereby the error could have been avoided if the offeror would have submitted a guaranteed remittance."

Also on December 15, 1975, appellant submitted a cashier's check to cover the returned check.

Appellant contends that his check was valid, that there were sufficient funds on deposit when the check was returned to the BLM, that the error was the bank's, and that in good faith he fully complied with the oil and gas leasing regulations. With his statement of reasons appellant has enclosed a March 22, 1976, letter from the bank Assistant Vice President-Manager explaining that the error resulted from a teller's incorrectly encoding a deposit slip on appellant's account, which caused a \$500 deposit to be credited to another person.

[1] The refusal to honor the check has been shown to be the error of the bank alone. For that reason, appellant's submission of a personal check to cover filing fees satisfied section 3112.2-1(a)(1). Glenn H. Bracken, 13 IBLA 43, 47 (1973); Duncan Miller, 70 LD. 113 (1963).

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is reversed and the case is remanded to the State Office for appropriate action.

Joseph W. Goss
Administrative Judge

We concur.

Anne Poindexter Lewis
Administrative Judge

Martin Ritvo
Administrative Judge

